



## 1997 ASSEMBLY BILL 455

July 15, 1997 - Introduced by Representatives GOETSCH, LADWIG, DOBYNS, ZIEGELBAUER, OLSEN, MUSSER, TURNER, HAHN, FREESE, LA FAVE, POWERS, GREEN, WALKER, OWENS, VRAKAS, GUNDERSON, OTTE, AINSWORTH, SYKORA, HASENOHRL, STASKUNAS, SPRINGER and SERATTI, cosponsored by Senators DRZEWIECKI, C. POTTER, HUELSMAN, WELCH, DARLING, ROESSLER, SCHULTZ, WEEDEN and ROSENZWEIG. Referred to Committee on Criminal Justice and Corrections.

1     **AN ACT to renumber** 938.245 (2) (a) 5. b., 938.245 (2g), 938.32 (1t) (a) 2. and  
2     938.32 (1t) (b); **to renumber and amend** 938.245 (2) (a) 3., 938.245 (2) (a) 4.,  
3     938.245 (2) (a) 5. a. and c., 938.245 (2) (a) 7., 938.245 (2) (a) 8., 938.32 (1t) (a)  
4     1. and 3. and 938.343 (4); **to amend** 38.24 (1s), 103.67 (2) (j), 103.70 (1), 938.245  
5     (2) (a) (intro.), 938.245 (2) (c), 938.245 (5), 938.34 (5) (a) and 938.547 (4); and **to**  
6     **create** 938.245 (2t) (d), 938.245 (2t) (e), 938.245 (2t) (f), 938.245 (2t) (g), 938.245  
7     (2t) (h), 938.32 (1t) (d), 938.32 (1t) (e), 938.32 (1t) (f), 938.32 (1t) (g), 938.32 (1t)  
8     (h), 938.34 (5) (d), 938.34 (5) (e), 938.34 (5) (f), 938.34 (5) (g), 938.34 (5) (h),  
9     938.343 (4) (b), 938.343 (4) (c), 938.343 (4) (d), 938.343 (4) (e), 938.343 (4) (f) and  
10    938.343 (4) (g) of the statutes; **relating to:** the making of restitution by a  
11    juvenile.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a juvenile who has committed an act that has resulted in damage to the property of another or in actual physical injury to another excluding pain and suffering may, under a deferred prosecution agreement, consent decree or

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dispositional order, be required to repair the damage to property or to make reasonable restitution for the damage or injury.

This bill changes the law relating to the restitution that a juvenile may be required to make to bring that law into closer conformity with the law relating to the restitution that an adult may be required to make. Specifically, the bill permits a juvenile to be required to make restitution not only when the juvenile's act results in damage to property, but also when the act results in *loss or destruction of* property, and to make restitution not when the act results in actual physical injury to another, but when the act results in *bodily* injury to another. The bill also permits a juvenile to be required to make restitution when death results from the juvenile's act.

In addition, the bill specifies what restitution a juvenile may be required to make. Specifically, the bill provides that:

1. If the juvenile's act has resulted in damage to or loss or destruction of property, the juvenile may be required to return the property to the owner or, if return of the property is impossible, impractical or inadequate, to pay the owner the reasonable repair or replacement cost of the property or the greater of the following:

a. The value of the property on the date of its damage, loss or destruction.

b. The current value of the property, less the value of any part of the property returned as of the date of its return.

2. If the juvenile's act has resulted in bodily injury, the juvenile may be required to do any one or more of the following:

a. Pay the cost of the victim's physical, psychiatric and psychological care and treatment.

b. Pay the cost of the victim's physical and occupational therapy and rehabilitation.

c. Reimburse the victim for lost income.

d. If the victim is solely employed as a homemaker, pay an amount sufficient to ensure that the victim's homemaker duties are continued until the victim is able to resume those duties.

3. If the juvenile's act has resulted in death, the juvenile may be required to pay the cost of the victim's funeral expenses, including the cost of a cemetery lot, grave marker and care of the lot.

4. If the juvenile's act constitutes sexual assault, sexual assault of a child, repeated sexual assault of a child, sexual exploitation of a child, incest with a child, child enticement or soliciting a child for prostitution, but the act does not result in bodily injury, the juvenile may be required to pay the cost, not to exceed \$10,000, of the victim's psychiatric and psychological care and treatment.

5. In any case, the juvenile may be required to do any one or more of the following:

a. Pay all damages that the victim could recover from the juvenile in a civil action.

b. Pay for the victim's lost income and reasonable out-of-pocket expenses incurred resulting from the filing of a petition or cooperating in the investigation and prosecution of the juvenile's act.

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c. Reimburse any person or agency for amounts paid as rewards for information leading to the apprehension or successful prosecution of the juvenile.

d. If justice so requires, reimburse any insurer who has compensated the victim for a loss otherwise compensable as restitution.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 38.24 (1s) of the statutes is amended to read:

2           38.24 (1s) ADDITIONAL FEES. A district board may establish and charge a fee  
3 in addition to the fees under sub. (1m) for a court-approved alcohol or other drug  
4 abuse education program offered to individuals under s. 48.245 (2) (a) 4., 48.345 (13)  
5 (b), 938.245 (2) (a) 4. (2g), 938.32 (1g) (b), 938.34 (6r) (b) or (14s) (b) 3., 938.343 (10)  
6 (c) or 938.344 (2g) (a).

7           **SECTION 2.** 103.67 (2) (j) of the statutes is amended to read:

8           103.67 (2) (j) Minors under 14 years of age may be employed as participants  
9 in a restitution project under s. 938.245 (2) (a) 5. (2t), 938.32 (1t) (a), 938.34 (5),  
10 938.343 (4) or 938.345 or a supervised work program or other community service  
11 work under s. 938.245 (2) (a) 6., 938.32 (1t) (b) (1v), 938.34 (5g), 938.343 (3) or  
12 938.345.

13           **SECTION 3.** 103.70 (1) of the statutes is amended to read:

14           103.70 (1) Except as otherwise provided in sub. (2) and in ss. 103.21 to 103.31,  
15 103.78, 938.245 (2) (a) 5. b. (2t) (b), 938.32 (1t) (a) 2. (b) and 938.34 (5) (b) and (5g)  
16 (c), and as may be provided under s. 103.79, a minor, unless indentured as an  
17 apprentice in accordance with s. 106.01, or unless 12 years and over and engaged in  
18 agricultural pursuits, or unless 14 years and over and enrolled in a youth  
19 apprenticeship program under s. 106.13, shall not be employed or permitted to work  
20 at any gainful occupation or employment unless there is first obtained from the

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1 department or a permit officer a written permit authorizing the employment of the  
2 minor within those periods of time stated in the permit, which shall not exceed the  
3 maximum hours prescribed by law.

4 **SECTION 4.** 938.245 (2) (a) (intro.) of the statutes is amended to read:

5 938.245 (2) (a) (intro.) A deferred prosecution agreement may provide for any  
6 one or more of the following conditions and for any one or more of the conditions  
7 specified in subs. (2d), (2f), (2g), (2m), (2t) and (2x) that are applicable:

8 **SECTION 5.** 938.245 (2) (a) 3. of the statutes is renumbered 938.245 (2f) and  
9 amended to read:

10 938.245 (2f) ~~That~~ If the multidisciplinary screen conducted under s. 938.24 (2)  
11 shows that the juvenile is at risk of having needs and problems related to the use of  
12 alcohol beverages, controlled substances or controlled substance analogs and the  
13 medical, personal, family or social effects of that use, the deferred prosecution  
14 agreement may require that the juvenile submit to an alcohol and other drug abuse  
15 assessment that conforms to the criteria specified under s. 938.547 (4) and that is  
16 conducted by an approved treatment facility for an examination of the juvenile's use  
17 of alcohol beverages, controlled substances or controlled substance analogs and any  
18 medical, personal, family or social effects caused by its use, if the multidisciplinary  
19 screen conducted under s. 938.24 (2) shows that the juvenile is at risk of having needs  
20 and problems related to the use of alcohol beverages, controlled substances or  
21 controlled substance analogs and its medical, personal, family or social effects that  
22 use.

23 **SECTION 6.** 938.245 (2) (a) 4. of the statutes is renumbered 938.245 (2g) and  
24 amended to read:

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1           938.245 (2g) That If an alcohol and other drug abuse assessment conducted  
2 under sub. (2f) recommends outpatient treatment, intervention or education, the  
3 deferred prosecution agreement may require that the juvenile participate in an  
4 alcohol and other drug abuse outpatient treatment program, a court-approved pupil  
5 assistance program provided by the juvenile's school board or a court-approved  
6 alcohol or other drug abuse education program, ~~if an alcohol and other drug abuse~~  
7 ~~assessment conducted under subd. 3. recommends outpatient treatment,~~  
8 ~~intervention or education.~~ The juvenile's participation in a court-approved pupil  
9 assistance program under this subdivision subsection is subject to the approval of  
10 the juvenile's school board.

11           **SECTION 7.** 938.245 (2) (a) 5. a. and c. of the statutes are renumbered 938.245  
12 (2t) (a) and (c) and amended to read:

13           938.245 (2t) (a) ~~That the juvenile participate in a restitution project if~~ If the  
14 act for which the deferred prosecution agreement is being entered into has resulted  
15 in damage to or loss or destruction of the property of another, or in actual physical  
16 in bodily injury to another excluding pain and suffering. Subject to subd. 5. c. or in  
17 death and if the intake worker, after taking into consideration the well-being and  
18 needs of the victim, considers it beneficial to the well-being and behavior of the  
19 juvenile, the deferred prosecution agreement may require the juvenile to repair the  
20 damage to property or, subject to par. (c), to make reasonable restitution for the  
21 damage or, injury if the intake worker, after taking into consideration the well-being  
22 and needs of the victim, considers it beneficial to the well-being and behavior of the  
23 juvenile or death as provided in pars. (d) to (h). Any such deferred prosecution  
24 agreement shall include a determination that the juvenile alone is financially able

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1 to pay and may allow up to the date of the expiration of the deferred prosecution  
2 agreement for the payment.

3 (c) Under this ~~subdivision~~ subsection, a deferred prosecution agreement may  
4 not require a juvenile who is under 14 years of age to make more than \$250 in  
5 restitution.

6 **SECTION 8.** 938.245 (2) (a) 5. b. of the statutes is renumbered 938.245 (2t) (b).

7 **SECTION 9.** 938.245 (2) (a) 7. of the statutes is renumbered 938.245 (2d) and  
8 amended to read:

9 938.245 (2d) ~~That the juvenile be placed with a volunteers in probation~~  
10 ~~program under such conditions as the intake worker determines are reasonable and~~  
11 ~~appropriate, if~~ If the juvenile is alleged to have committed an act that would  
12 constitute a misdemeanor if committed by an adult, if the chief judge of the judicial  
13 administrative district has approved under s. 973.11 (2) a volunteers in probation  
14 program established in the juvenile's county of residence and if the intake worker  
15 determines that volunteer supervision under that volunteers in probation program  
16 will likely benefit the juvenile and the community, the deferred prosecution  
17 agreement may require that the juvenile be placed with a volunteers in probation  
18 program under such conditions that the intake worker determines are reasonable  
19 and appropriate. The conditions that the intake worker may establish under this  
20 ~~subdivision~~ subsection may include, but need not be limited to, a request to a  
21 volunteer to provide for the juvenile a role model, informal counseling, general  
22 monitoring and monitoring of the conditions established by the intake worker, or any  
23 combination of these functions, and any other deferred prosecution condition that  
24 the intake worker may establish under this ~~paragraph~~ section.

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1           **SECTION 10.** 938.245 (2) (a) 8. of the statutes is renumbered 938.245 (2m), and  
2           938.245 (2m) (intro.), as renumbered, is amended to read:

3           938.245 (**2m**) (intro.) ~~That~~ The deferred prosecution agreement may require  
4           that the juvenile be placed in a teen court program if all of the following conditions  
5           apply:

6           **SECTION 11.** 938.245 (2) (c) of the statutes is amended to read:

7           938.245 (**2**) (c) If the deferred prosecution agreement provides for alcohol and  
8           other drug abuse outpatient treatment under ~~par. (a) 4. sub. (2g)~~, the juvenile and  
9           the juvenile's parent, guardian or legal custodian shall execute an informed consent  
10          form that indicates that they are voluntarily and knowingly entering into a deferred  
11          prosecution agreement for the provision of alcohol and other drug abuse outpatient  
12          treatment.

13          **SECTION 12.** 938.245 (2g) of the statutes is renumbered 938.245 (2x).

14          **SECTION 13.** 938.245 (2t) (d) of the statutes is created to read:

15          938.245 (**2t**) (d) If the act for which the deferred prosecution agreement is  
16          entered into has resulted in damage to or loss or destruction of property, the deferred  
17          prosecution agreement may require the juvenile to return the property to the owner  
18          or the owner's designee or, if return of the property is impossible, impractical or  
19          inadequate, pay the owner or the owner's designee the reasonable repair or  
20          replacement cost of the property or the greater of the following:

- 21                1. The value of the property on the date of its damage, loss or destruction.
- 22                2. The value of the property on the date of the deferred prosecution agreement,  
23                less the value of any part of the property returned as of the date of its return. The  
24                value of any retail merchandise shall be its retail value.

25          **SECTION 14.** 938.245 (2t) (e) of the statutes is created to read:

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1           938.245 (2t) (e) If the act for which the deferred prosecution agreement is  
2 entered into has resulted in bodily injury, the deferred prosecution agreement may  
3 require that the juvenile do any one or more of the following:

4           1. Pay an amount equal to the cost of necessary medical and related  
5 professional services and devices relating to physical, psychiatric and psychological  
6 care and treatment.

7           2. Pay an amount equal to the cost of necessary physical and occupational  
8 therapy and rehabilitation.

9           3. Reimburse the injured person for income lost as a result of the act for which  
10 the deferred prosecution agreement is entered into.

11           4. If the injured person's sole employment at the time of the injury was  
12 performing the duties of a homemaker, pay an amount sufficient to ensure that the  
13 duties are continued until the person is able to resume performance of the duties.

14           **SECTION 15.** 938.245 (2t) (f) of the statutes is created to read:

15           938.245 (2t) (f) If the act for which the deferred prosecution agreement is  
16 entered into has resulted in death, the deferred prosecution agreement may require  
17 that the juvenile pay an amount equal to the cost of necessary funeral and related  
18 services under s. 895.04 (5).

19           **SECTION 16.** 938.245 (2t) (g) of the statutes is created to read:

20           973.20 (2t) (g) If the juvenile violated s. 940.225, 948.02, 948.025, 948.05,  
21 948.06, 948.07 or 948.08 and par. (e) 1. does not apply, the deferred prosecution  
22 agreement may require that the juvenile pay an amount, not to exceed \$10,000, equal  
23 to the cost of necessary professional services relating to psychiatric and psychological  
24 care and treatment. The \$10,000 limit under this paragraph does not apply to the

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1 amount of any restitution agreed to under par. (e) or (h) for the cost of necessary  
2 professional services relating to psychiatric and psychological care and treatment.

3 **SECTION 17.** 938.245 (2t) (h) of the statutes is created to read:

4 938.245 (2t) (h) In any case, the deferred prosecution agreement may require  
5 that the juvenile do any one or more of the following:

6 1. Pay all special damages, but not general damages, substantiated by evidence  
7 in the record, which could be recovered in a civil action against the juvenile for his  
8 or her conduct in the commission of the act for which the deferred prosecution  
9 agreement is entered into.

10 2. Pay an amount equal to the income lost, and reasonable out-of-pocket  
11 expenses incurred, by the person against whom the act for which the deferred  
12 prosecution agreement is entered into was committed resulting from cooperating in  
13 the investigation and prosecution of the act.

14 3. Reimburse any person or agency for amounts paid as rewards for  
15 information leading to the apprehension of the juvenile for the act for which the  
16 deferred prosecution agreement is entered into.

17 4. If justice so requires, reimburse any insurer, surety or other person who has  
18 compensated a victim for a loss otherwise compensable under this subsection.

19 **SECTION 18.** 938.245 (5) of the statutes is amended to read:

20 938.245 (5) A deferred prosecution agreement under sub. (2) (a) 1. ~~to 8.~~ 2. or  
21 6., (2d), (2f), (2g), (2m), (2t) or (2x) may be terminated upon the request of the  
22 juvenile, parent, guardian or legal custodian. A deferred prosecution agreement  
23 under sub. (2) (a) 9. may be terminated by the court upon the request of the juvenile,  
24 parent, guardian or legal custodian.

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1           **SECTION 19.** 938.32 (1t) (a) 1. and 3. of the statutes are renumbered 938.32 (1t)  
2 (a) and (c) and amended to read:

3           938.32 (1t) (a) ~~Subject to subd. 3., if~~ If the petition alleges that the juvenile  
4 committed a delinquent act that has resulted in damage to or loss or destruction of  
5 the property of another, ~~or in actual physical~~ in bodily injury to another excluding  
6 pain and suffering ~~or in death and if the judge or juvenile court commissioner, after~~  
7 taking into consideration the well-being and needs of the victim, considers it  
8 beneficial to the well-being and behavior of the juvenile, the judge or juvenile court  
9 commissioner may require the juvenile, as a condition of the consent decree, to repair  
10 the damage to property or, subject to par. (c), to make reasonable restitution for the  
11 damage ~~or, injury if the judge or juvenile court commissioner, after taking into~~  
12 ~~consideration the well-being and needs of the victim, considers it beneficial to the~~  
13 ~~well-being and behavior of the juvenile~~ or death as provided in pars. (d) to (h). Any  
14 consent decree that includes a condition of restitution shall include a finding that the  
15 juvenile alone is financially able to pay and may allow up to the date of the expiration  
16 of the consent decree for the payment. Objection by the juvenile to the amount of  
17 damages claimed shall entitle the juvenile to a hearing on the question of damages  
18 before the amount of restitution is made part of the consent decree.

19           (c) Under this ~~paragraph~~ subsection, a judge or juvenile court commissioner  
20 may not order a juvenile who is under 14 years of age to make more than \$250 in  
21 restitution.

22           **SECTION 20.** 938.32 (1t) (a) 2. of the statutes is renumbered 938.32 (1t) (b).

23           **SECTION 21.** 938.32 (1t) (b) of the statutes is renumbered 938.32 (1v).

24           **SECTION 22.** 938.32 (1t) (d) of the statutes is created to read:

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1           938.32 (1t) (d) If the delinquent act resulted in damage to or loss or destruction  
2 of property, the consent decree may require the juvenile to return the property to the  
3 owner or the owner's designee or, if return of the property is impossible, impractical  
4 or inadequate, pay the owner or the owner's designee the reasonable repair or  
5 replacement cost of the property or the greater of the following:

6           1. The value of the property on the date of its damage, loss or destruction.

7           2. The value of the property on the date of the consent decree, less the value  
8 of any part of the property returned as of the date of its return. The value of any retail  
9 merchandise shall be its retail value.

10           **SECTION 23.** 938.32 (1t) (e) of the statutes is created to read:

11           938.32 (1t) (e) If the delinquent act resulted in bodily injury, the consent decree  
12 may require that the juvenile do any one or more of the following:

13           1. Pay an amount equal to the cost of necessary medical and related  
14 professional services and devices relating to physical, psychiatric and psychological  
15 care and treatment.

16           2. Pay an amount equal to the cost of necessary physical and occupational  
17 therapy and rehabilitation.

18           3. Reimburse the injured person for income lost as a result of the delinquent  
19 act.

20           4. If the injured person's sole employment at the time of the injury was  
21 performing the duties of a homemaker, pay an amount sufficient to ensure that the  
22 duties are continued until the person is able to resume performance of the duties.

23           **SECTION 24.** 938.32 (1t) (f) of the statutes is created to read:

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1           938.32 (1t) (f) If the delinquent act resulted in death, the consent decree may  
2 require that the juvenile pay an amount equal to the cost of necessary funeral and  
3 related services under s. 895.04 (5).

4           **SECTION 25.** 938.32 (1t) (g) of the statutes is created to read:

5           938.32 (1t) (g) If the juvenile violated s. 940.225, 948.02, 948.025, 948.05,  
6 948.06, 948.07 or 948.08 and par. (e) 1. does not apply, the consent decree may require  
7 that the juvenile pay an amount, not to exceed \$10,000, equal to the cost of necessary  
8 professional services relating to psychiatric and psychological care and treatment.  
9 The \$10,000 limit under this paragraph does not apply to the amount of any  
10 restitution ordered under par. (e) or (h) for the cost of necessary professional services  
11 relating to psychiatric and psychological care and treatment.

12           **SECTION 26.** 938.32 (1t) (h) of the statutes is created to read:

13           938.32 (1t) (h) In any case, the consent decree may require that the juvenile  
14 do any one or more of the following:

15           1. Pay all special damages, but not general damages, substantiated by evidence  
16 in the record, which could be recovered in a civil action against the juvenile for his  
17 or her conduct in the commission of the delinquent act.

18           2. Pay an amount equal to the income lost, and reasonable out-of-pocket  
19 expenses incurred, by the person against whom the delinquent act was committed  
20 resulting from the filing of charges or cooperating in the investigation and  
21 prosecution of the delinquent act.

22           3. Reimburse any person or agency for amounts paid as rewards for  
23 information leading to the apprehension or successful prosecution of the juvenile for  
24 the delinquent act.

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1           4. If justice so requires, reimburse any insurer, surety or other person who has  
2 compensated a victim for a loss otherwise compensable under this subsection.

3           **SECTION 27.** 938.34 (5) (a) of the statutes is amended to read:

4           938.34 (5) (a) ~~Subject to par. (c), if~~ If the juvenile is found to have committed  
5 a delinquent act which has resulted in damage to or loss or destruction of the  
6 property of another, ~~or actual physical in bodily~~ injury to another excluding pain and  
7 suffering, or in death and if the court, after taking into consideration the well-being  
8 and needs of the victim, considers it beneficial to the well-being and behavior of the  
9 juvenile, the court may order the juvenile to repair the damage to property or, subject  
10 to par. (c), to make reasonable restitution for the damage or, injury if the court, after  
11 taking into consideration the well-being and needs of the victim, considers it  
12 beneficial to the well-being and behavior of the juvenile or death as provided in pars.  
13 (d) to (h). Any such order shall include a finding that the juvenile alone is financially  
14 able to pay and may allow up to the date of the expiration of the order for the  
15 payment. Objection by the juvenile to the amount of damages claimed shall entitle  
16 the juvenile to a hearing on the question of damages before the amount of restitution  
17 is ordered.

18           **SECTION 28.** 938.34 (5) (d) of the statutes is created to read:

19           938.34 (5) (d) If a delinquent act considered at disposition resulted in damage  
20 to or loss or destruction of property, the restitution order may require the juvenile  
21 to return the property to the owner or the owner's designee or, if return of the  
22 property is impossible, impractical or inadequate, pay the owner or the owner's  
23 designee the reasonable repair or replacement cost of the property or the greater of  
24 the following:

25           1. The value of the property on the date of its damage, loss or destruction.

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1           2. The value of the property on the date of disposition, less the value of any part  
2 of the property returned as of the date of its return. The value of any retail  
3 merchandise shall be its retail value.

4           **SECTION 29.** 938.34 (5) (e) of the statutes is created to read:

5           938.34 (5) (e) If a delinquent act considered at disposition resulted in bodily  
6 injury, the restitution order may require that the juvenile do any one or more of the  
7 following:

8           1. Pay an amount equal to the cost of necessary medical and related  
9 professional services and devices relating to physical, psychiatric and psychological  
10 care and treatment.

11           2. Pay an amount equal to the cost of necessary physical and occupational  
12 therapy and rehabilitation.

13           3. Reimburse the injured person for income lost as a result of a delinquent act  
14 considered at disposition.

15           4. If the injured person's sole employment at the time of the injury was  
16 performing the duties of a homemaker, pay an amount sufficient to ensure that the  
17 duties are continued until the person is able to resume performance of the duties.

18           **SECTION 30.** 938.34 (5) (f) of the statutes is created to read:

19           938.34 (5) (f) If a delinquent act considered at disposition resulted in death, the  
20 restitution order may require that the juvenile pay an amount equal to the cost of  
21 necessary funeral and related services under s. 895.04 (5).

22           **SECTION 31.** 938.34 (5) (g) of the statutes is created to read:

23           938.34 (5) (g) If the juvenile violated s. 940.225, 948.02, 948.025, 948.05,  
24 948.06, 948.07 or 948.08 and par. (e) 1. does not apply, the restitution order may  
25 require that the juvenile pay an amount, not to exceed \$10,000, equal to the cost of

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1 necessary professional services relating to psychiatric and psychological care and  
2 treatment. The \$10,000 limit under this paragraph does not apply to the amount of  
3 any restitution ordered under par. (e) or (h) for the cost of necessary professional  
4 services relating to psychiatric and psychological care and treatment.

5 **SECTION 32.** 938.34 (5) (h) of the statutes is created to read:

6 938.34 (5) (h) In any case, the restitution order may require that the juvenile  
7 do any one or more of the following:

8 1. Pay all special damages, but not general damages, substantiated by evidence  
9 in the record, which could be recovered in a civil action against the juvenile for his  
10 or her conduct in the commission of a delinquent act considered at disposition.

11 2. Pay an amount equal to the income lost, and reasonable out-of-pocket  
12 expenses incurred, by the person against whom a delinquent act considered at  
13 disposition was committed resulting from the filing of charges or cooperating in the  
14 investigation and prosecution of the delinquent act.

15 3. Reimburse any person or agency for amounts paid as rewards for  
16 information leading to the apprehension or successful prosecution of the juvenile for  
17 a delinquent act for which the juvenile was adjudicated delinquent or to the  
18 apprehension or prosecution of the juvenile for a delinquent act that was read into  
19 the record and dismissed at the time of adjudication.

20 4. If justice so requires, reimburse any insurer, surety or other person who has  
21 compensated a victim for a loss otherwise compensable under this subsection.

22 **SECTION 33.** 938.343 (4) of the statutes is renumbered 938.343 (4) (a) and  
23 amended to read:

24 938.343 (4) (a) If the violation has resulted in damage to or loss or destruction  
25 of the property of another, or in actual physical in bodily injury to another excluding

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1 ~~pain and suffering or in death and if the court, after taking into consideration the~~  
2 ~~well-being and needs of the victim, considers it beneficial to the well-being and~~  
3 ~~behavior of the juvenile, the court may order the juvenile to make repairs of the~~  
4 ~~damage to property or, subject to par. (c), to make reasonable restitution for the~~  
5 ~~damage or, injury if the court, after taking into consideration the well-being and~~  
6 ~~needs of the victim, considers it beneficial to the well-being and behavior of the~~  
7 ~~juvenile or death as provided in pars. (d) to (g). Any such order requiring payment~~  
8 ~~for repairs or restitution shall include a finding that the juvenile alone is financially~~  
9 ~~able to pay and may allow up to the date of the expiration of the order for the~~  
10 ~~payment. Objection by the juvenile to the amount of damages claimed shall entitle~~  
11 ~~the juvenile to a hearing on the question of damages before the amount of restitution~~  
12 ~~is ordered.~~

13 **SECTION 34.** 938.343 (4) (b) of the statutes is created to read:

14 938.343 (4) (b) In addition to any other employment or duties permitted under  
15 ch. 103 or any rule or order under ch. 103, a juvenile under 14 years of age who is  
16 participating in a restitution project provided by the county may, for the purpose of  
17 making restitution ordered by the court under this subsection, be employed or  
18 perform any duties under any circumstances in which a juvenile 14 or 15 years of age  
19 is permitted to be employed or perform duties under ch. 103 or any rule or order  
20 under ch. 103. A juvenile who is participating in a restitution project provided by the  
21 county is exempt from the permit requirement under s. 103.70 (1).

22 **SECTION 35.** 938.343 (4) (c) of the statutes is created to read:

23 938.343 (4) (c) Under this subsection, a court may not order a juvenile who is  
24 under 14 years of age to make more than \$250 in restitution.

25 **SECTION 36.** 938.343 (4) (d) of the statutes is created to read:

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1           938.343 (4) (d) If the violation resulted in damage to or loss or destruction of  
2 property, the restitution order may require the juvenile to return the property to the  
3 owner or the owner's designee or, if return of the property is impossible, impractical  
4 or inadequate, pay the owner or the owner's designee the reasonable repair or  
5 replacement cost of the property or the greater of the following:

6           1. The value of the property on the date of its damage, loss or destruction.

7           2. The value of the property on the date of disposition, less the value of any part  
8 of the property returned as of the date of its return. The value of any retail  
9 merchandise shall be its retail value.

10           **SECTION 37.** 938.343 (4) (e) of the statutes is created to read:

11           938.343 (4) (e) If the violation resulted in bodily injury, the restitution order  
12 may require that the juvenile do any one or more of the following:

13           1. Pay an amount equal to the cost of necessary medical and related  
14 professional services and devices relating to physical, psychiatric and psychological  
15 care and treatment.

16           2. Pay an amount equal to the cost of necessary physical and occupational  
17 therapy and rehabilitation.

18           3. Reimburse the injured person for income lost as a result of a violation  
19 considered at disposition.

20           4. If the injured person's sole employment at the time of the injury was  
21 performing the duties of a homemaker, pay an amount sufficient to ensure that the  
22 duties are continued until the person is able to resume performance of the duties.

23           **SECTION 38.** 938.343 (4) (f) of the statutes is created to read:

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1           938.343 (4) (f) If the violation resulted in death, the restitution order may  
2 require that the juvenile pay an amount equal to the cost of necessary funeral and  
3 related services under s. 895.04 (5).

4           **SECTION 39.** 938.343 (4) (g) of the statutes is created to read:

5           938.343 (4) (g) In any case, the restitution order may require that the juvenile  
6 do any one or more of the following:

7           1. Pay all special damages, but not general damages, substantiated by evidence  
8 in the record, which could be recovered in a civil action against the juvenile for his  
9 or her conduct in the commission of a violation considered at disposition.

10          2. Pay an amount equal to the income lost, and reasonable out-of-pocket  
11 expenses incurred, by the person against whom a violation considered at disposition  
12 was committed resulting from the filing of charges or cooperating in the investigation  
13 and prosecution of the violation.

14          3. Reimburse any person or agency for amounts paid as rewards for  
15 information leading to the apprehension or successful prosecution of the juvenile for  
16 the violation.

17          4. If justice so requires, reimburse any insurer, surety or other person who has  
18 compensated a victim for a loss otherwise compensable under this subsection.

19           **SECTION 40.** 938.547 (4) of the statutes is amended to read:

20           938.547 (4) ASSESSMENT CRITERIA. The uniform alcohol and other drug abuse  
21 assessment criteria that the department developed shall be used in the pilot program  
22 under ss. 938.245 (2) (a) ~~3. (2f)~~, 938.295 (1), 938.32 (1g), 938.343 (10) and 938.344  
23 (2g). An approved treatment facility that assesses a person under ss. 938.245 (2) (a)  
24 ~~3. (2f)~~, 938.295 (1), 938.32 (1g), 938.343 (10) and 938.344 (2g) may not also provide  
25 the person with treatment unless the department permits the approved treatment

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1 facility to do both in accordance with the criteria established by rule by the  
2 department.

3 **SECTION 41. Initial applicability.**

4 (1) This act first applies to delinquent acts and civil law or ordinance violations  
5 committed on the effective date of this subsection.

6 (END)